IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 27744 of 2007(S)

OA.816/2006 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. UNION OF INDIA, REPRESENTED BY
SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF URBAN DEVELOPMENT,
NIRMAN BHAVAN, NEW DELHI-110011.

2. DIRECTOR GENERAL OF WORKS,
CENTRAL P.W.D., NIRMAN BHAVAN,
NEW DELHI-110011.

3. THE PAY AND ACCOUNTS OFFICER,
CPWD(SZ), E-2-C WING, RAJAJI BHAVAN,
BASANTH NAGAR, CHENNAI-600090.

BY ADV. SRI.GEORGE JOSEPH, ADDL.CGSC

RESPONDENTS:
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1. G.BALAKRISHNAN NAIR,
SATHYANADAURI, MYTHRI NAGAR,
C-47, VALIAVILA, THIRUMALA P.O.,
THIRUVANANTHAPURAM.

2. THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH,
SASTHA TEMPLE ROAD.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.27744 of 2007

Judgment

Balakrishnan Nair, J.

The respondents in OA No.816/06 are the petitioners herein. The applicant and the Registrar of the Central Administrative Tribunal are respectively, the respondents. The petitioners challenge Ext.P1 order of the CAT, to the extent, it orders payment of interest for the leave encashment benefit, amounting to Rs.1,96,460/- for the period from 01.01.2003 till the date of payment on 02.03.2006. The 1st respondent was facing disciplinary proceedings at the time of his retirement on 31.12.2002. The disciplinary enquiry against him in the pending proceedings was completed on 23.02.2002. But, no final orders were passed in the said proceedings before his retirement. Even after his retirement, when no final orders were passed in the proceedings, he filed OA No.763/04. The said OA was disposed of on 04.11.2004, directing to complete the disciplinary proceedings, give the vigilance clearance within three months and to pay the retirement benefits within one month thereafter. Even within the said time limit, the proceedings

were not finalised. The first respondent filed contempt application. Pending contempt proceedings, the disciplinary action was closed by order dated 05.02.2006. The DCRG payable to him was paid on 17.03.2006 without any interest and the leave encashment benefit was released to him on 02.03.2006, without interest. The CAT, by the Judgment under challenge, directed payment of 9% interest for the above said two payments. The petitioners herein have no grievance against the direction to pay interest for the DCRG. But, they challenge the said direction in relation to the leave encashment benefit. According to them, there is no provision in the CCS(Pension) Rules, 1972, for payment of interest on the delayed payment of leave salary. But, the tribunal , relying on the decisions of the Apex Court in **Shashikala Varma v. State of Bihar** (2006 SCC (L&S) 654) and **State of Punjab v. Manjit Kaur** (2006 SCC (L&S) 675), allowed the claim of the petitioner for interest. The tribunal also noticed that there was inordinate delay in finalising the proceedings and therefore, the payments due to the first respondent were delayed without any justifiable reason. He could have normally received the leave encashment benefits at any time after 01.01.2003. It was paid to him only after three years. If the said amount was released to him earlier, he could have deposited the

same in some Bank and could have earned interest on it. Noticing the above facts, the tribunal, in its discretion, decided to order payment of interest to the applicant, who is the first respondent herein for the leave encashment benefit also. Though there is no express provision in the relevant Rules, it is not in dispute that there is no prohibition in the Rules against payment of interest on delayed payment of leave encashment benefits. So, we feel that this equitable relief granted by the tribunal on the facts of the case, cannot be interfered with by this Court under Article 226 of the Constitution of India. The discretion exercised by the tribunal cannot be described as perverse or something, which no man in his senses will do. In the result, the Writ Petition fails and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

18.09.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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